THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.27908 OF 2005

Dated: 29-12-2005

Between

Patha Pandari, S/o. Lakshmaiah,

Occ: Business, R/o. Kamareddy,

Nizamabad District.

...PETITIONER

AND

Deputy Commissioner of Prohibition

& Excise, Karimnagar Division,

Karimnagar and another.

...RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the respondents 1 and 2 in issuing the proceedings Cr.No.704/05/P&Ex/A2 dated 20.10.2005 in not releasing the Jaggery in P.R.No.322/2005-06 dated 23.09.2005 as illegal and arbitrary.

Learned counsel for the petitioner submits that a case in P.R.No.322 of 2004-2005 was registered by the Prohibition & Excise Inspector, Karimanagar under Section 34(a) of the Andhra Pradesh Excise Act, 1968 (for short 'the Act') seizing 400 lumps of Black Jaggery totaling 5600 Kgs and Eicher Van bearing No. AP9V 6505 and produced before the Deputy Commissioner of Prohibition and Excise, Karimnagar. The owner of the said vehicle filed an

application for interim release of the vehicle pending disposal of the confiscation proceedings and the first respondent vide proceedings dated 20.10.2005 ordered the release of the vehicle for interim custody on obtaining the Vikas Cash Certificate for Rs.80,000/- in his favour.

The learned counsel further submits that the petitioner filed a representation dated 26.09.2005 requesting to release the black jaggery in his favour but the same has not been considered.

The learned counsel further submits that the petitioner purchased the black jaggery from a farmer by paying the market committee fee.

Whether the petitioner purchased the said jaggery from the farmer for the purpose of sale to the merchant or not is a matter to be decided by the first respondent.

Having regard to the facts and circumstances of the case,

the respondent is directed to consider and dispose the representation of the petitioner dated 26.09.2005 for the release of jaggery within two weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of.

_____

V. ESWARAIAH, J

December 29, 2005

Note: Furnish C.C. of the order in two days.

(**B**/**O**)

DSK